

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit:2151

Examiner: Patel, Dhairya A.

Serial No.: 09/910,680

Filed: July 20, 2001

In re Application of: Schrempp et al.

Confirmation No.: 2531

Customer No.: 28661

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Examiners Answer dated December 5, 2007, kindly find the
Reply Brief on Behalf of Appellant.

REPLY BRIEF ON BEHALF OF APPELLANT

In the Arguments for Group I claims, on page 6, of the Appeal Brief, Appellants pointed out that Lert1 does not teach receiving an arbitrary portion of data. It was further pointed out that:

Lert1 does not show the use of an arbitrary portion of data because Lert1 searches for cue signals and then reads a certain amount of data. (Page 6).

The examiner, in his response argued that:

[I]t is inherent that broadcast signals which contains cue signals of broadcast program contains arbitrary part of signals because a whole signal contains an arbitrary portion of signal therefore it is inherent that signals contain an arbitrary portion. It is also inherent that broadcast signature (representation of data) includes an representation of arbitrary portion because since the representation is created from the whole signal (data), arbitrary portion is covered because a representation of the whole signal is made therefore a representation of arbitrary portion of data is inherently made. (Page 4).

Claim 1 claims:

A playlist generation system comprising:

at least one analysis module for receiving signals that include data wherein said data includes an arbitrary portion of data of an unknown work, analyzing said data, generating a representation of said data including said arbitrary portion of data of said unknown work, and transmitting said representation over a network to an identification server;

at least one identification (ID) server for receiving said representation over said network from said at least one analysis module and determining the identity of said unknown work from said representation. (Emphasis added).

The question then is the definition of “*an arbitrary portion of data of an unknown work*”.

The critical distinction between the present invention and Lert1 is that the present invention attempts to match representations of segments of streaming data with representations of known works in order to identify the work in which the segments exist.

(For example, see Page 14, lines 4-10). Lert1 on the other hand waits until a cue signal (or trigger) in the input stream, and then compares a predetermined length of the data stream after the cue or trigger to reference works in order to identify the work. Thus, in the Lert1 Abstract:

An automated method and system for identifying broadcast programs wherein a pattern recognition process is combined with a signalling event which acts as a trigger signal. At least one such trigger, or "cue" signal, occurs with each broadcast of every program which is to be identified; and these signals are used to activate the pattern recognition process which results in program identification. These cue signals can either be artificially inserted into the program signal or they can be events which occur naturally as part of normal broadcast procedures. A segment of each program at a predetermined location with respect to one of these cue signals is sampled and processed according to a feature extraction algorithm to form the program's reference signature, which is stored in computer memory. In the field, the monitoring equipment detects cue signals broadcast by a monitored station and, upon detection, samples the broadcast program signal at the same predetermined location with respect to the detected cue and uses the same feature extraction process to create a broadcast signature of unknown program identity. By comparing broadcast signatures to reference signatures, a computer identifies the broadcasts of programs whose reference signatures have been stored in memory. (Emphasis Added).

The question is whether detecting cue signals and sampling at the same predetermined location with respect to the detected cue is *an arbitrary portion of data of an unknown work*.

Attached as an appendix are definitions of “*arbitrary*” from several dictionary, brought together by dictionary.com. Most of the definitions are not relevant. But of note are: dictionary.com definition #5: “*Mathematics. undetermined; not assigned a specific value: an arbitrary constant*”; American Heritage Dictionary definition #1: “*Determined by chance, whim, or impulse, and not by necessity, reason, or principle*”; and Merriam-Webster's Dictionary of Law definition #3: “*b : existing or coming about seemingly at*

random or by chance or as an unreasonable act of individual will without regard for facts or applicable law”.

The Lert1 invention cannot be said by these definitions to be comparing an arbitrary portion of data of an unknown work since the location and length of the section of a data stream requires a fixed length of sampling at a fixed location relative to a cue or trigger. It is predetermined, and not arbitrary.

Thus, these elements are missing from the cited Lert1 reference. Appellants respectfully submit that a prima facie case of anticipation by Lert1 of these claims has not been made, that this rejection of these claims is improper, and request that the rejection of these claims be reversed.

If the Examiner has any questions regarding this application or this response, the Examiner is requested to telephone the undersigned at 775-586-9500.

Respectfully submitted,
SIERRA PATENT GROUP, LTD.

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